

2004-54

>>> "KENNETH TIEWS" <[tiews@wheelerupham.com](mailto:tiews@wheelerupham.com)> 7/6/2005 12:48 PM >>>

Dear Clerk,

It strikes me that the proposed revision to MCR 5.409(C)(6) could be improved.

One question I have about the present draft is what function the word "should" is supposed to perform. Is it merely precatory? Is it intended to be mandatory? In the second case, "shall" would be clearer.

Whatever "should" is intended to denote, do we really want a rule that directs courts to allow accounts merely because they are three years old, irrespective of their merits? I suggest that the second sentence of the revised rule be changed to something along the following lines: "Every account shall be either allowed or disallowed no later than three years after it has been reviewed."

Very truly yours,

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